IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH

AT HYDERABAD

THE HONOURABLE SRI JUSTICE N.V.RAMANA

W.P.No.20932 of 1996

Dated: 9th September 2005

Between:

Y.Sivaramappa Naidu. **..PETITIONER**

And

The Government of Andhra Pradesh,

Rep by its Secretary Food & Civil Supplies

Dept., Secretariat, Hyderabad & two others. **…RESPONDENTS**

THE HONOURABLE SRI JUSTICE

N.V.RAMANA

W.P.No.20932 of 1996

ORDER:

This writ petition is filed assailing the Memo.No.1834/C5.IV (1)/95, dated 30-6-1995, issued by the 1st respondent, whereunder all the Collectors and the Chief Rationing Officer, Hyderabad, were asked to issue instructions to the appointing

authorities to cancel the fair price shop dealership of the dealers who got elected to Public Offices, after duly issuing a show cause.

The petitioner states that he was appointed as fair price shop dealer of Matlavaripalli in Kurabalakota Revenue Mandal, Chittoor District in the year 1981, and since then he is running the fair price shop to the utmost satisfaction of 357 cardholders. On 30-6-1995, he was elected as Sarpanch of Matlavaripalli Grampanchayat. On the very same day, the Government issued the impugned Memo, and based on the said Memo, the 2nd respondent issued notice dated 28-12-1995 directing him to show cause as to why his authorization given under Clause 3 of the A.P. Scheduled Commodities (Regulation of Distribution by Card System) Order 1973 should not be cancelled. The petitioner submitted his explanation stating that no honarorium is being paid to him by the Government for holding the Office of Sarpanch and that the duties of Sarpanch and fair price shop dealer are altogether different, and requested to drop further proceedings in the matter. In spite of submitting explanation, the petitioner states that the 2nd respondent in terms of the impugned Memo dated 30-6-1995 issued by the Government, issued proceedings dated 25-8-1996 cancelling his authorization.

The learned counsel for the petitioner submitted that since the petitioner was appointed as fair price shop dealer in the year 1981, the question of applying the impugned Memo, issued by the 1st respondent on 30-6-1995, for cancellation of authorization of those holding Public Offices, does not arise. He submitted that this aspect of the matter, was considered by a Division Bench of this Hon'ble Court in W.P. No.10292 of 1988 and batch, dated 18-9-1990. He further submits that the petitioner was appointed as Fair Price shop dealer under A.P. Schedule Commodities (RDCS) Order 1973 issued under the provisions of the Essential Commodities Act, 1955, much prior to his appointment as Sarpanch, and therefore, the administrative instructions issued in the impugned Memo, cannot be made applicable to the petitioner for cancellation of his authorization, by giving overriding effect to the Control Orders.

The learned counsel for the petitioner further submits that the petitioner is continuing as a fair price shop dealer by virtue of the interim orders passed by this Court on 4-10-1996 and the petitioner's tenure as Sarpanch expired long back and he has not contested the elections again.

Counter affidavit is filed by the respondents. In the counter it is stated that the petitioner was appointed as a fair shop dealer, and while continuing as such, he was elected as Sarpanch for Mattivaripalle village during 30-6-1995, and therefore, the Revenue Divisional Officer, Madanapalle, being the competent authority, to appoing fair price shop dealers, and he having issued authorization, having regard to the instructions issued by the Government in Memo.No.1834/CS-IV (1)/95 dated 30-6-1995, has issued show cause notice, and after considering the explanation, cancelled the authorization by order dated 28-8-1996, and no exception can be taken thereto. It is further stated that the Government in their G.O. Ms. No.951 F&A

(CS.II) Department, dated 16-5-1988, have issued guidelines for selection of Fair Price shop dealers, and subsequently the Government in their Memo No. 1834/CS-IV (1)/95, dated 30-6-1995, have clearly issued instructions to the authorities to cancel the authorization of those dealers who have been elected to Public Offices. It is further stated that the contention of the petitioner that the Memo cannot be given retrospective effect to, is untenable.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

Admittedly, the petitioner was appointed as fair price shop dealer in the year 1981 and since then he has been running the fair price shop to the satisfaction of the cardholders and the authorities. While so, the petitioner was elected as Sarpanch on 30-6-1995. On the very same day, the Government issued instructions in Memo.No.1834/C5.IV (1)/95, dated 30-6-1995, issued by the 1st respondent, whereunder all the Collectors and the Chief Rationing Officer, Hyderabad, were asked to issue instructions to the appointing authorities to cancel the fair price shop dealership of the dealers who got elected to Public Offices, after duly issuing a show cause. In pursuance of the said memo, respondent No.2, who is the authority competent to appoint fair price shop dealers, and who in fact, has issued the authorization, issued show cause notice issued to the petitioner. The petitioner submitted his explanation. However, the 2nd respondent, vide orders impugned in the writ petition, cancelled the authorization of the petitioner on the ground that he cannot continue in dealership as he has been elected as Sarpanch. Assailing the said order, the petitioner filed the present writ petition, and obtained stay of the order passed by the 2nd respondent canceling the authorization. By virtue of the interim order, the petitioner continued as fair price shop dealer. Now, it is stated that the tenure of the petitioner as Sarpanch has expired, and he has not contested the post of Sarpanch. Inasmuch as the impugned order canceling the authorization came to be passed on the ground that he was holding the post of Sarpanch, and now that his tenure as Sarpanch is over, and he having not again contested the election and he now no more being the Sarpanch or holding any Public Office, I am of the considered opinion, that there is no reason for this Court to sustain the impugned order.

Hence, the writ petition is allowed. The impugned order is quashed. No costs.

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(N.V.RAMANA,J)

09th September, 2005

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